

EXCERPTS OF PROFESSIONAL SERVICES LAW AND REGULATIONS
CHAPTER 28, TITLE 2, CODE OF ALABAMA 1975
CHAPTER 80-10-9, ALABAMA ADMINISTRATIVE CODE
CHAPTER 80-5-1, ALABAMA ADMINISTRATIVE CODE

The following information applies to the Horticulture Categories under the Professional Services Law and Regulations. These categories are Setting of Landscape Plants (SLP), Landscape Design (LD), Tree Surgery (TS) and Ornamental and Turf Pest Control (OTPS).

80-10-9-.03 – Persons Required to Secure Permits

Before any person engages in professional work or services as defined in the chapter or before any person shall solicit such work through advertising or in any other manner, such person shall apply for and obtain an annual permit from the Commissioner in accordance with § 2-28-04, Code of Alabama (1975).

80-10-9-.02 Definitions

(13) **Entomological Work.** Receiving fees for advice or prescriptions for the control or eradication of any insect pest or rodent or for actual spraying, dusting, fumigating or any other methods used for the control or eradication of any insect pest or rodent.

(18) **Horticultural and Floricultural Work.** Receiving fees for landscaping and the setting of landscape plants or for the sale of any plants for which the seller contracts to render future services.

(25) **Pathological Work.** Receiving fees for advice or prescriptions for the control or eradication of any plant disease or for actual spraying or any other methods used for the control or eradication of any plant disease.

(36) **Supervisor.** A person who has met the competency requirements in one or more categories of professional work or services and is qualified to supervise such work including work which shall involve use of pesticides.

(38) **Supervision.** The act or process whereby professional work or services, including such work which shall involve use of pesticides are made by a competent individual acting under the direction and control of a Supervisor who is available when needed. The Supervisor need not be physically present at the time and place that professional work or services are performed including such work which shall involve use of pesticides unless otherwise prescribed by the label or labeling of the pesticides being used or in other situations as is needed.

(39) **Tree Surgery Work.** Receiving fees for tree surgery which includes cavity filling or repair, bracing, cabling, and wound treatment of shrubs and trees, but such work shall not include pruning, feeding, budding or grafting of trees or shrubs nor wounds made and treated during pruning.

(40) **Weed Control Work.** Receiving fees for advice or prescription for the control or eradication of any weed or for actual spraying or other methods used for the control and eradication of any plant which grows where not wanted.

Rule 80-10-9-.04 Categories, Examinations, And Qualifications. Before a permit is issued to any person to engage in professional work or services, such person shall pass a written examination prepared by the examining board as created by Code of Alabama (1975) § 2-28-2. Categories for examinations and for which permits are to be issued are as follows:

(4) Ornamental and Turf Pest Control. This category includes persons who apply measures for the purpose of preventing, controlling, or eradicating pests of ornamental plants, shade trees (which may include nut or fruit trees, if used as ornamental plants or shade trees), and turf.

(5) Landscape Horticultural and Floricultural Work. This category includes persons engaged in landscaping and setting of plants, or for sale of plants for which the seller contracts to render future service. Such work shall be subdivided into the following subcategories as follows:

(a) Landscape Horticulturist. A person who engages in the planning, location and management of landscape plant material including such work which involves a design ability and proficiency suitable to make a graphic presentation with specifications for a landscape planting. (Permitted as Landscape Design).

(b) Landscape Planter. A person who engages in the actual setting of landscape plants. Such person shall have adequate knowledge and ability to perform cultural, pruning, and other practices necessary to establish and maintain the landscape planting. (Permitted as Setting of Landscape Plants).

(6) Tree Surgery. This category includes persons engaged in cavity filling, or repairing, bracing, cabling, and wound treatments of shrubs and trees. This category includes persons having the knowledge and ability of tree surgery work which includes cavity filling or repairing, bracing, cabling and wound treatment of shrubs and trees.

CERTIFICATION CATEGORIES, PERMITS AND FEES

Setting of Landscape Plants (SLP) -- This certification is required when a person engages in the actual setting (installation) of landscape plants. Such person shall have adequate knowledge and ability to perform cultural, pruning, and other practices necessary to establish and maintain the landscape planting.

Certification and Permits Required: 1) Certification in Setting of Landscape Plants. 2) Permits: Professional Services Permit and Nursery Dealer Permit.

Fees: SLP exam - \$75; Professional Services Permit - \$175; Nursery Dealer Permit - \$20

Call 334-240-7240 or 334-240-7243 to request information on exam/study material.

Landscape Design (LD) --This certification is required when a person engages in the planning, location and management of landscape plant material including such work which involves a design ability and proficiency suitable to make a graphic presentation with specifications for a landscape planting. In every day use this also includes an individual or company who sells their design(s) in and of themselves; gets into designing for corporations, etc., or when they create a design but do not complete the installation part of the job.

Certification and Permits Required: 1) Certification in Landscape Design. 2) Permit: Professional Services Permit.

Fees: LD exam - \$75; Professional Services Permit - \$175;

Call 334-240-7240 or 334-240-7243 to request information on exam/study material.

Individuals certified and licensed in Chapter 28, Title 2, Code of Alabama (1975) to perform Landscape Horticulture and Floriculture work cannot call themselves *Landscape Architect*. There is a regulatory authority for Licensed Landscape Architect or ****Landscape Contractor** (jobs over \$50,000)

LANDSCAPE ARCHITECT BOARD
908 S Hull St
Montgomery AL 36104
334-262-1351

****For all landscaping jobs over \$50,000 call:**
STATE CONTRACTORS BOARD
334-272-5030

Tree Surgery (TS) This certification is required when a person engages in and is receiving fees for tree surgery work which includes cavity filling or repair, bracing, cabling, and wound treatment of shrubs and trees, but such work shall not include pruning, feeding, budding or grafting of trees or shrubs nor wounds made and treated during pruning.

Certification and Permits Required: 1) Certification in Tree Surgery 2) Permit: Professional Services Permit.

Fees: TS exam - \$75; Professional Services Permit - \$175

Call 334-240-7240 or 334-240-7243 to request information on exam/study material.

Ornamental and Turf Pest Control (OTPS) – This category includes persons who apply measures for the purpose of preventing, controlling, or eradicating pest of ornamental plants, shade trees (which may include nut or fruit trees, if used as ornamental plants or shade trees), and turf.

Certification and Permits Required: 1) Certification in Ornamental and Turf Pest Control/Supervisor (OTPS) 2) Permits: Commercial Applicator Permit and Professional Services Permit.

Fees: OTPS exam-\$75; Commercial Applicator Permit - \$45; Professional Services Permit - \$175

Call 334-240-7240 or 334-240-7243 to request information on exam/study material.

80-10-9.11 – Compliance with Chapter 25 of Title 2 Code of Alabama 1975 – No permit shall be issued to a person to practice the professional work or services of Landscape Horticultural and Floricultural Work as defined in Rule No. 80-10-9-.045 (5) (b) of these rules, unless the provisions of Chapter 25 of Title 2 of the Code of Alabama (1975) have been complied with relative to Nursery Dealer Certificate and plants being moved and sold under proper certificate tags issued by the Commissioner.

Nursery Dealer Permit – this permit is required, by law, for those individuals and/or companies that are engaging in Setting of Landscape Plants (SLP) or landscaping services. \$20 annually – valid from October 1st through September 30th each year. The Plant Protection Section handles this permit (334-242-7225).

80-10-9.10 Supervision of Offices

(1) Every person who engages in professional work or services, other than structural pest control work, shall conduct such work from an established place of business which shall be certified by the Examining Board as Supervisor and such person shall be responsible for supervision of the Professional work or service conducted, or this person shall have another individual who is a full-time resident employee of such person who has been certified as a Supervisor and such individual shall be responsible for supervision of the professional work or service of the permittee. Where a person has more than one separate place of business, each such separate place of business shall be under the supervision of an individual certified as Supervisor. No person who has been certified by the Examining Board as a Supervisor shall be assigned or designated as supervisor of the activities of more than one place of business.

ENFORCEMENT

§ 2-28-11, Code of Alabama (1975) Penalties for violations of provisions of chapter or rules or regulations promulgated hereunder; injunctive proceedings to restrain performance, etc., of professional work or services without permit.

(a) *Penalties.* – Any person who engages in professional work or services as defined in this chapter or any person who solicits such work through advertising or in any other manner without having a permit as required by said chapter or any person who violates any of the provisions or requirements of this chapter or any rules and regulations adopted and promulgated as authorized under said chapter by failure to comply with any of the requirements or rules and regulations of said chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$25.00 nor more than \$500.00 and, within the discretion of the court, may also be imprisoned for a period not to exceed six months. Fines paid for such violations shall be deposited in the state treasury to the credit of the agricultural fund.

(b) *Injunctive relief.* – In addition to the penalty provided hereunder, the circuit court or any judge thereof shall have jurisdiction, for cause shown to grant a temporary restraining order or a permanent injunction or both restraining and enjoining any person from performing any professional work or services as defined in this chapter or from soliciting such work without having a valid permit as required by said chapter or after such a permit has been revoked. Petitions for injunctive relief as authorized under this subsection shall be filed in the circuit court of the county of residence of the person who performs work or services in violation of this chapter or in the county where such unauthorized work is performed. Any temporary restraining order or permanent injunction issued under this subsection shall be issued without a bond. Any action commenced under this subsection based upon facts furnished by the action commenced under this subsection based upon facts furnished by the commissioner of agriculture and industries or others having knowledge thereof may be brought in the name of the state of Alabama; provided, that such action shall be brought upon the relation of the attorney general and with his approval and such officer shall upon his request be assisted by the district attorney or deputy district attorney of the judicial circuit in which injunctive proceedings are filed.

Chapter 80-5-1 -- STANDARDS FOR ASSESSMENT OF CIVIL PENALTIES

Rule 80-5-1-.04 – Maximum Penalties for Operating Without Being Licensed

(1) Operating without being licensed, for the purposes of this rule, means doing any act which requires a license, permit, certification or registration in the absence of a valid license, permit, certification or registration which is prohibited under law and duly promulgated rules without said authorization.

It specifically includes, but is not limited to, the following sections of the Code of Alabama (1975) and rules under the Alabama Administrative Code.

(a) Registration of a pesticide under § 2-27-9.

(b) Selling of restricted use pesticides under § 2-27-10.

(c) Using restricted use pesticides under § 2-27-11 and rule 80-1-13-.06.

(d) Engaging in the custom application of pesticides under § 2-27-53 and Chapter 80-1-14, Alabama Administrative Code.

(e) Engaging in professional work or services requiring certification in that occupation under § 2-28-2 and rules 80-10-9-.04, 80-10-9.05, and 80-10-9-.06.

(f) Engaging in professional work or services requiring a permit under § 2-28-4.

(2) The maximum penalty for the proven violation of operating without being licensed is \$3,000.00.